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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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08/988,292 12/10/97 THEEUWES

F ARC-2600-R1

QM12/1028

EXAMINER

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MCDERMOTT, C

ART UNIT

PAPER NUMBER

3763

8

DATE MAILED:

10/28/99

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

## Office Action Summary

Application No. <b>08/988,292</b>	Applicant(s) <b>Theeuwes et al.</b>
Examiner <b>Corrine M. McDermott</b>	Group Art Unit <b>3763</b>

Responsive to communication(s) filed on Sep 21, 1999

This action is **FINAL**.

Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire three month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

### Disposition of Claims

Claim(s) 1-8, 10-21, and 23-29 is/are pending in the application.

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

Claim(s) 26 and 27 is/are allowed.

Claim(s) 1-5, 8, 10-12, 14, 15, 18-21, 23-25, 28, and 29 is/are rejected.

Claim(s) 6, 7, 13, 16, and 17 is/are objected to.

Claims \_\_\_\_\_ are subject to restriction or election requirement.

### Application Papers

See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

The proposed drawing correction, filed on \_\_\_\_\_ is  approved  disapproved.

The specification is objected to by the Examiner.

The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. § 119

Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

All  Some\*  None of the CERTIFIED copies of the priority documents have been

received.

received in Application No. (Series Code/Serial Number) \_\_\_\_\_.

received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

### Attachment(s)

Notice of References Cited, PTO-892

Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_

Interview Summary, PTO-413

Notice of Draftsperson's Patent Drawing Review, PTO-948

Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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*Claim Objections*

Claim 20 is objected to because of the following informalities: the language of line 2, "storing an agent *is* selected from" is improper. Appropriate correction is required.

*Claim Rejections - 35 USC § 112*

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 25 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

There is no antecedent basis for "the passing step" of claim 25

*Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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Claims 1-5, 8, 10-12, 14, 15, 18-21, 23, 24, 28 and 29 are rejected under 35 U.S.C. 102(b) as being anticipated by EP 0 429 842.

The EP reference discloses a device which includes, as seen in figure 1, a member having a plurality of protrusions 4 extending therefrom, and a connecting medium 3 preloaded with an agent. With further reference to page 7 lines 13-16, it is taught that the member to which the plurality of protrusions are attached is a woven sheet of polypropylene fibers. Clearly there are openings of some size within the woven sheet of fibers, and at various stages of delivery the medium will extend across, through and into these openings.

#### *Response to Arguments*

Applicant's arguments filed September 21, 1999 have been fully considered but they are not persuasive.

Applicant has taken the position that the "channels" that make their way through the polypropylene sheet of Lee, do not read on the openings as claimed. The Examiner disagrees. In the broadest sense, an opening allows for passage from one side of an object to the other side of that same object. Clearly, a channel would allow for the same, thus, the Examiner contends that the so called "channels" of Lee read on the openings as claimed.

Applicant has further argued that Lee does not show a connecting medium located on the body surface proximal side of the *member*, taking the position that the skin needle support 5 of Lee has to be the *member* as claimed. *Member*, as set forth in the claim, is a very broad

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limitation. With respect to the claim language, the Lee device as a whole reads on the member, the reservoir located on the body surface distal side of this *member*, and the medium and needles located on the body surface proximal side of this *member*.

*Allowable Subject Matter*

Claims 6, 7, 13, 16, and 17 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claim 25 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2<sup>nd</sup> paragraph, set forth in this Office action.

Claims 26 and 27 are allowable over the prior art of record.

*Conclusion*

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

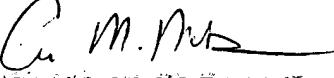
A shortened statutory period for reply to this final action is set to expire **THREE** MONTHS from the mailing date of this action. In the event a first reply is filed within **TWO** MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

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CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Corrine McDermott, whose telephone number is (703) 308-2111. The Examiner can normally be reached on Monday through Thursday from 7:00 AM to 4:30 PM. The Examiner can also be reached on alternate Fridays.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0858. The fax phone number for this Group is (703) 305-3590.

  
Corrine M. McDermott  
Primary Examiner  
Art Unit 3763